

Penelope S. Strong
PENELOPE STRONG LAW FIRM
2517 Montana Ave.
Billings, MT. 59101
Tel: 406-839-9220
Fax: 406-839-9221

ATTORNEY FOR DEFENDANT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,)	
)	CR 18-105-BLG-DLC
Plaintiff,)	
)	MEMORANDUM IN
v.)	SUPPORT OF UNOPPOSED
)	SECOND MOTION TO
)	CONTINUE TRIAL
STETSON LEE HINEBAUCH)	
)	
Defendant.)	
)	

A. The Motion to Continue is Well-Taken and should be Granted.

Courts have recognized that illness, of either counsel, or a defendant, is a sound basis to grant relief when a motion to continue a trial is filed. Thus, in *United States v. Christy*, 785 F. Supp. 2d 990, 996 (D.N.M.2011), the District Court held that failure to grant a continuance would result in a miscarriage of justice and would deny Christy's counsel the reasonable time necessary for effective preparation, given the recent debilitating illness of Christy's counsel and

various other factors. It concluded that the ends of justice were served by the continuance and outweighed the interests of the public and Christy in a speedy trial. *See* 18 U.S.C. § 3161(h) (7) (A).

Furthermore, counsel must provide effective representation to her client, and with her current health issues, she has had to undertake a reduced work schedule. This, in turn has impacted and will impact trial preparation in this case, and it is her duty to decide when and if, additional time is needed to prepare the criminal defense, and to file for the appropriate relief. The request for an additional 45 days is not unreasonable.

Additionally, as defense counsel's unsworn declaration states, additional investigation to develop and to support the declared affirmative defense of entrapment by estoppel, has been required. Defense counsel must ensure a thorough investigation has been performed, so that her client can be assured of full and fair representation.

1. Prejudice to Defendant(s).

Moreover, defense counsel has been diligent, and at times, the physical health of counsel cannot be ignored or overlooked. Thus, the request is not frivolous. In fact, to deny the motion will severely prejudice Mr. Hinebauch, whom is constitutionally entitled to have his defense counsel have sufficient time to prepare his case.

Finally, the defense states that this Motion and request for a continuance of the trial and associated deadlines satisfies the test announced in *Marquez*. The ends of justice will be served by a continuance and the ends of justice outweigh the best interests of the public and Mr. Hinebauch in a speedy trial.

For purposes of the Speedy Trial Act, the Defendant represents that any delay in setting this matter for trial is excluded under 18 U.S.C. § 3161(h).

The Defendant represents that under 18 U.S.C. § 3161(h)(8)(A) and (B) the ends of justice served by granting his request for a continuance outweigh the best interests of the public and the defendant in a speedy trial. A continuance of at least forty-five days is requested for the Defendant.

Dated this 17th day of December, 2018.

By /s/ Penelope S. Strong
Penelope S. Strong
Attorney for Defendant

STATEMENT OF COMPLIANCE

I hereby certify that this Memorandum is in compliance with Local Rules. The Memorandum is proportionately spaced, the body of the argument has a Times New Roman typeface, 14-point size and contains less than 6,500 words.

DATED this 17th day of December, 2018.

By /s/ Penelope S. Strong
Penelope S. Strong
Attorney for Defendant

CERTIFICATE OF SERVICE

This is to certify that on the 17th day of December, 2018, a copy of the foregoing document was served upon the individual or individuals whose names and addresses appear below by CM/ECF filing:

Thomas Godfrey (Godfrey@usdoj.gov)
Assistant U.S. Attorney
U.S. Attorney's Office
Counsel for the United States of America

By: /s/ Penelope S. Strong
Penelope S. Strong
Penelope Strong Law Firm
Attorney for Defendant